

# **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

## **Introduction to OFIR**

The Office of Financial and Insurance Regulation (OFIR) is responsible for the regulation of Blue Cross Blue Shield, 27 HMOS, 136 banks, 2 BIDCOs, 175 domestic insurance companies, 221 credit unions, 1,411 foreign insurance companies, 1,925 investment advisers, 2,134 securities broker-dealers, 6, 835 consumer finance lenders, 176,000 insurance agents, and 130,354 securities agents.

## **OFIS Accomplishments Fiscal Year 2008**

### **Significant Regulatory Actions**

- No Michigan state-chartered bank failed in FY 2008.
- OFIR continued to protect consumers by prohibiting bad actors from participating in Michigan's residential mortgage broker, mortgage lender, and mortgage servicer industries. OFIR mortgage examinations and investigations resulted in 14 prohibition orders and 2 license revocations in fiscal 2008.
- The OFIR Mortgage Examination and Investigation Section completed 416 examinations/investigations in fiscal year 2008.
- The OFIR Mortgage Examination and Investigation Section examination staff was augmented by nine examiners during fiscal year 2008, greatly increasing the regulatory presence of OFIR in the mortgage marketplace.
- An OFIR Mortgage Examination and Investigation Section employee chaired the Regulatory Exam Committee for the American Association of Residential Mortgage Regulators (AARMR). The committee produced examination procedures for reviewing a lender's assessment of a borrower's ability to repay.
- Insurance Investigation and Examination staff are regularly contacted by the FBI and Secret Service agents regarding new and ongoing investigations of title agencies who are part of the fraud triangle in the mortgage industry.
- The Consumer Assistance Section obtained \$10,694,576 in recoveries for Michigan consumers in FY 2008.
- The Market Conduct Unit completed 40 Level 1 examination of companies authorized to do business in Michigan to determine whether or not the companies appear to pose any risk to Michigan consumers.
- OFIR Securities staff investigated several citizen complaints filed against Comerica Securities ("Comerica"), a brokerage firm headquartered in Detroit. The complaints related to investments in auction rate securities sold by Comerica to its customers over a several year period. OFIR's investigation concluded in September, with a settlement agreement executed between and among Comerica, OFIR, and the Michigan Attorney General's office. Under the agreement, Comerica offered to repurchase all auction rate securities from its customers. Comerica also agreed to pay a civil penalty of \$10,000 for violations under the Michigan Uniform Securities Act, and make a \$100,000 contribution to Michigan's investor education fund.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

- OFIR placed National Foot Care Program Inc. into rehabilitation on October 18, 2007. Due to the company's deteriorating financial condition the company was placed into liquidation on December 14, 2007.
- OFIR released American Way Casualty Company of Michigan as well as its affiliate American Way Life Insurance Company from rehabilitation in May 2008.
- OFIR received 44 applications from insurance companies to do business in Michigan. Four of these applications were withdrawn, three are still under review and 37 companies were issued certificates of authority to do business in Michigan. OFIR verifies that the companies that are approved for licensure operate in a manner that is safe, reliable and entitled to the public confidence. As more companies enter our market, consumers are provided with more choice in selecting their insurance providers.
- OFIR received 625 quarterly and annual financial filings from companies domiciled in Michigan. Over 99% of these filings were reviewed in detail by financial analysts within 90 days.
- OFIR has 1,417 foreign companies doing business in Michigan, financial analysts perform at a minimum a cursory review of these companies which exceed over 5000 filings throughout the year.
- No Michigan credit union failed in FY 2008.
  - OFIR issued two Cease and Desist orders to Michigan state-chartered credit unions to address and ensure correction of noted deficiencies.
  - OFIR entered into one memorandum of agreement with a Michigan state-chartered credit union to address noted deficiencies and document required corrective actions.
  - OFIR issued Bulletin 2008-09-CU clarifying permissible employee deferred compensation arrangements and related investment limitations for Michigan state-chartered credit unions.
  - OFIR met the criteria necessary to fulfill its statutory responsibility to charter, examine, supervise, and regulate credit unions chartered in Michigan and received continued accreditation from the National Association of State Credit Union Supervisors (NASCUS).
  - OFIR Deputy Commissioner Roger Little was reelected to the NASCUS Board of Director. Mr. Little has been a NASCUS Director since 1999, and served as Chairman of the organization in 2003 and 2004.
  - OFIR participated in various committees representing the Michigan credit union industry on the national front including NASCUS, the Federal Financial Institution Examination Council, National Credit Union Administration Supervisory System Work Group, and the National Institute for State Credit Union Examination Trustees.
- Product Review Section - Administrative Rule R 500.2201 - 500.2202 (DISCRETIONARY CLAUSES) was published in March 2007. The overall number of non life and health insurers responsible for responding to the rule is 814 property/casualty, 22 title insurers, and 3 legislatively created p/c insurers. The total number for which we currently show compliance is 800 property/casualty, 21 title insurers, and 3 legislatively created p/c insurers. Enforcement cases have been pursued by the Office of General Counsel to bring the remaining 14 p/c insurers and 1 title insurers into compliance.
- Product Review Section - Administrative Rule R 500.2211 - 500.2212 (SHORTENED TIME LIMITATIONS) was published in April 2007. The overall number of non life and health insurers responsible for responding to the rule is 814 property/casualty, 22 title insurers, and 2

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

legislatively created p/c insurers. The total number for which we currently show compliance is 793 property/casualty, 22 title insurers, and 2 legislatively created p/c insurers. Enforcement cases have been pursued by the Office of General Counsel to bring the remaining 21 p/c insurers and into compliance.

- Product Review Section - Handled the enforcement action for the life and health insurance companies for failure to respond to the above noted administrative rules. Out of 315 life & health insurers we took action against only 24 companies have yet to comply.
- Product Review Section - Mailed 157 NOSC's to property & casualty and life & health insurance companies for failure to respond to the Discretionary Clause Admin Rule. Brought 76 into compliance prior to the end of the fiscal year.
- Product Review Section - Mailed 382 NOSC's to property & casualty and life & health insurance companies for failure to respond to the Shortened Limitation Admin Rule Brought 213 into compliance prior to the end of the fiscal year.
- Product Review Section - Disapproved 18.6% homeowners rate increase filed by Michigan Basic Property Insurance Association that would have otherwise been effective 7-1-08.
- Product Review Section disapproved or withdrew approval of thirty-three (33) rule, rate, and policy form filings in order to protect consumers against provisions that did not comply with Michigan law
- Consumer Finance Section - Passage of the series of House and Senate Bills that created loan officer registration under the Mortgage Brokers, Lenders, and Servicers Licensing Act.
- Consumer Finance Section - Bulletin 2008-02-CF regarding the regulatory loan processing fee was issued.
- Consumer Finance Section - Bulletin 2007-12-CF regarding the regulatory loan processing fee was issued.
- Consumer Finance Section - 70 administration action and 11 legal review requests were made by the Consumer Finance Section to the Office of General Counsel in Fiscal Year '08.
- Consumer Finance Section - 63 examinations and 25 investigations were conducted and recorded by the Consumer Finance Section in Fiscal Year '08.
- In late 2007, Governor Granholm signed into law PA 106, which created Public Employer Pooled Plans (PEPPs). These plans are similar to multiple Employer Welfare Arrangements, but the law applies only to public employers who choose to come together to self-fund health care coverage for employees. The first PEPP, West Michigan Health Insurance Pool, received its temporary registration on October 28, 2008. This PEPP represents a number of West Michigan school districts.
- The Policy Division, along with the Commissioner, Chief Deputy Commissioner, Office of General Counsel, Licensing Division and Enforcement Division were instrumental in ensuring a deliberative policy analysis occurred for the Loan Officer Licensing package of bills. The bi-partisan, bi-cameral package requires mortgage loan officers to take pre-registration training, pass an exam, obtain registration with the State, pass a background check and criminal check, and attend regular continuing education sessions. It also creates a Mortgage Industry Advisory Board responsible for advising the Commissioner on appropriate training for loan officers. These mechanisms will improve the professionalism amongst loan officers, strengthening OFIR's oversight against individual loan officers and reinforce existing oversight that brokers have over loan officers with whom they do business.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

- The Policy Division released an Evaluation of the Michigan Medical Professional Liability Insurance Market for 2000-2005. Created by Pinnacle Actuaries, the evaluation is required by MCL 500.2477d(a) and MCL 500.2477d(c). The evaluation describes the medical malpractice insurance market in Michigan and makes recommendations concerning that market.
- The Policy Division has participated in the Michigan Long-term Care Partnership Program. Public Act 674 of 2006 authorized Michigan to participate in this new program established by the Deficit Reduction Act of 2005. The Department of Community Health, the Department of Human Services, and the Office of Financial and Insurance Regulation are to work together to implement the program. The Long-term Care Partnership Program is a partnership between the state Medicaid system and the private long-term care insurance industry that will help encourage Michigan citizens to assume financial responsibility for their future long-term care needs, while still being able to rely on the Michigan Medicaid services if they are needed. An individual from the Policy Division serves on the committee working toward implementation of the program.
- Policy Division staff participated in approximately eight meetings of the Michigan Automobile Insurance Placement Facility (MAIPF) as the commissioner's representative. The Division also acted as a liaison throughout the year between the MAIPF and OFIS on various insurance related issues including assisting the Commissioner in the board member reappointment process.
- Policy Division staff attended approximately six meetings of the Governor's Traffic Safety Advisory Commission as the commissioner's representative.
- The Policy Division completed research on a comprehensive legislative initiative to combat insurance fraud in the State of Michigan. The Division continues to work with representatives of the insurance industry, law enforcement agencies, insurance associations, state and national fraud organizations, and the Michigan Legislature to successfully enact and begin an insurance fraud authority.
- The Policy Division completed research on various legislative proposals including the use of medical fee schedules for auto insurance claim reimbursement, the possible coordination of Medicare and auto insurance policies, allowing policyholders to choose lower limits of auto insurance PIP coverage, a possible revision to the definition used to qualify for tort suit under auto insurance, and the use of geographic territories by auto insurance companies for rating purposes.
- The Policy Division provided technical assistance to American Actuarial Consulting Group (AACG) as the company completed an actuarial review on possible costs and/or cost savings on a number of auto insurance legislative proposals. The Division also acted as a liaison between AACG and various insurance industry representatives to obtain critical background information for the study.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

### **Significant New Business in Michigan**

- Level One Bank, Farmington Hills, opened for business on October 5, 2007. The bank is a full service community bank with an emphasis on commercial lending. The bank opened with \$12,500,000 in capital.
- OFIR assisted The First National Bank of Three Rivers' conversion to a state-chartered bank, now known as FNB Financial, effective December 31, 2007.
- OFIR assisted Bishop Murphy Columbus Federal Credit Union's merger with and into St. Cletus Credit Union, effective January 26, 2008.
- OFIR assisted Cascades Community Federal Credit Union's conversion to a state-chartered credit union, now known as Cascades Credit Union, effective May 1, 2008.
- OFIR assisted Automotive Federal Credit Union's merger with and into MPG Community Credit Union, effective May 1, 2008.
- OFIR assisted West Michigan National Bank & Trust's conversion to a state-chartered bank, now known as West Michigan Bank & Trust, effective June 2, 2008.
- OFIR assisted Motown First Federal Credit Union's merger with and into Craftsman Credit Union, effective August 1, 2008.
- OFIR approved the merger of St. Mary's of Royal Oak Parish Credit Union, Royal Oak, with and into OUR Credit Union, Royal Oak, effective October 31, 2007.
- OFIR approved the consolidation of The Montrose State Bank, Montrose, with and into Community State Bank of St. Charles, St. Charles, effective November 30, 2007.
- OFIR approved the consolidation of Community Bank of Greenville, Greenville, with and into Isabella Bank and Trust, Mt. Pleasant effective January 1, 2008.
- OFIR approved the merger of Members Choice Credit Union, Redford Township, with and into Michigan Catholic Credit Union, Troy, effective February 1, 2008.
- OFIR approved the consolidation of Firstbank-Lakeview, Lakeview, with and into Firstbank, Mt. Pleasant, effective May 16, 2008.
- OFIR approved the merger of Kalamazoo Gazette Employees Credit Union, Kalamazoo, with and into KALSEE Credit Union, Kalamazoo, effective June 1, 2008.
- OFIR approved the merger of Iosco Community Credit Union, Iosco, with and into Alpena-Alcona Area Credit Union, Alpena, effective June 21, 2008.
- OFIR approved the merger of Tek-Ni-Kal Credit Union, Warren, with and into Central Macomb Community Credit Union, Clinton Township, effective July 1, 2008.
- OFIR received a petition to merge filed by John Hancock Life Insurance Company (USA) or "JHUSA," requesting the Commissioner's approval to merge two affiliates, John Hancock Life Insurance Company and John Hancock Variable Life Insurance Company – both currently domiciled in Massachusetts – with and into JHUSA, domiciled in Michigan. This is a very significant transaction which, if

## **FY 2008 Annual Program Performance Measures**

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

approved, will result in one of the largest life insurance companies in the country with well over \$200 billion in assets. The target date for the merger is late 2009.

- OFIR received our first application under the Public Employees Health Benefit Act, which was enacted by the legislature effective October 1, 2007. This Act allows OFIR to grant a Certificate of Registration to a public employee pooled plan (PEPP) that meets the criteria of registration. PEPPs may provide medical, optical, and dental benefits to its members. OFIR received only one application under this Act during the fiscal year.
- OFIR is in the process of building a program to regulate and promote the formation and licensure of captive insurance companies in Michigan.
- OFIR issued on September 10, 2008 the first limited certificate of authority to Squire Reassurance Company LLC, which was formed as a Michigan special purpose financial captive insurance company. Effective March 13, 2008, the legislature amended the Insurance Code to allow for the formation and licensure of captive insurance companies in Michigan. In its simplest form, a captive insurance company insures only those risks of its parent and affiliates.
- Consumer Finance Section - Approved Licensees/Registrants from October 1, 2007 through September 30, 2008:

○ Consumer financial service providers- Class I	0	
○ Consumer financial service providers - Class II	1	
○ Credit card providers		1
○ Debt management providers		3
○ Deferred presentment providers	55	
○ First mortgage licensees		204
○ First mortgage registrants		28
○ Motor vehicle installment sellers	179	
○ Motor vehicle sales finance companies	38	
○ Money transmitters		7
○ Regulatory loan providers		8
○ Secondary mortgage licensees	1	
○ Secondary mortgage registrants	135	
Total		660

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

### **Significant Streamlining Of Processes or “Bureaucracy Busters”**

- An extensive consumer complaint resolution and mediation effort in the area of mortgage foreclosures and mortgage fraud was provided by staff in the Consumer Assistance Section. Staff worked diligently to educate consumers of their rights and worked with mortgage lenders and servicers and other state, federal and local agencies to keep Michigan residents in their homes.
- Policies and Procedures Manuals were developed and/or revised for all units within the Consumer Services Division. Responsibilities of new programs and the merger of units from other sections required processing changes. A major focus was spent on systematizing our policies and procedures to ensure consistency and efficiency in processing the work of the Division.
- OFIR successfully completed the interim annual review process to maintain the accreditation of its insurance financial regulation program. In March, The National Association of Insurance Commissioners formally approved Michigan's continuing status as an accredited state for the coming year.
- OFIR instituted formal policies and procedures to improve efficiency and consistency in our review of health care certificates of coverage.
- Product Review Section - Held a public hearing in Lansing on 5-29-08 to allow insurance companies, consumers, and other interested parties to comment on the efficacy of mandating that all rate, rule, and policy form filings be submitted electronically through the nationally uniform SERFF system operated by National Association of Insurance Commissioners staff and to allow them to comment on whether or not and to what extent Michigan should re-institute prior approval policy form review. We subsequently issued a bulletin mandating that all filings be submitted electronically via SERFF effective 4-1-09.
- Consumer Finance Section - OFIR entered into an agreement with the Money Transmission Regulators Association (MTRA). This allows for joint multi-state examinations of entities that conduct money transmission services.
- The Consumer Finance Section began using the new NMLS MU1 and MU2 paper application forms for the licensing and registration of mortgage brokers, lenders, and servicers.
- The Division completed the Medical Malpractice Competition Report and it was approved by the Commissioner.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

### **Education and Outreach**

- OFIR co-sponsored with the Michigan Association of Community Bankers a new Bank Directors College.
- The OFIR Commissioner presented at two symposia that facilitated direct discussion with bank executives regarding their concerns.
- OFIR executives assisted in planning and presented at two foreclosure aversion conferences sponsored by the FDIC and the Federal Reserve Bank of Chicago.
- OFIR participated in numerous forums discussing mortgage industry regulation with other regulators, mortgage industry representatives, and consumer groups.
- OFIR conducted quarterly informational seminars designed to educate the mortgage industry on licensing, complaint processing, examinations/investigations, and enforcement matters.
- Bank & Trust Assistant Director Gary Thielsen instructed at the MBA Perry School of Banking; Senior Examination Manager Shelley McCarthy taught the CSBS Problem Bank School.
- The Consumer Services Division participated in mortgage and insurance licensee seminars. The insurance licensee seminar received approval from the Continuing Education Course review Board to allow 3 ethics credits to insurance producers who take the course. The insurance seminar is so well received that industry trade groups and larger insurance agencies have requested OFIR present seminars at their offices and annual meetings.
- OFIR conducted consumer outreach efforts to educate the public concerning financial services products and companies regulated by OFIR. Staff had a presence at both State Fairs (UP and Detroit) providing educational material; actively participated with the Detroit insurance purchasing group (MDQLIA), the financial literacy group Money Smart, the financial education group Jumpstart that targets youths in K-12, the economic education group Michigan Council on Economic Education; and presented to community groups, universities and church congregations to deliver outreach messages on issues of insurance, mortgage and investments.
- OFIR continued to facilitate implementation of The Investor Education @ Your Library® program, funded through a grant by the Investor Protection Trust to the OFIR Securities Section. This program, which began in 2006, has been an extremely successful outreach initiative. The goal of the program is to provide quality, noncommercial investor education through Michigan's libraries. During the year, sessions were held at many public libraries throughout the state, reaching hundreds of Michigan citizens.
- The OFIR Securities Section continued its long-term outreach program to intermediate school systems within Michigan. The program's goal is to train teachers in developing a model for teaching financial education to students in their high school social studies/economics, math, business education, family, and consumer science classes. Under the program, a free teaching curriculum entitled "The Basics of Saving and Investing in 2020," is presented to attendees.
- OFIR staff participated in several AARP-sponsored Senior Investment Fraud Seminars in various Michigan cities throughout the year.



## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

- OFIR Securities Section staff participated in two industry seminars in October 2007: a “Before the Bell” breakfast meeting, hosted by a Detroit-area law firm, and “Generating Revenue through Non-Traditional Financial Services” sponsored by the Michigan Association of Community Bankers.
- OFIR staff participated in two events hosted by WWJ Newsradio 950 – CBS Radio-Detroit in November 2007, at which OFIR presented the Investor Education @ Your Library® program.
- OFIR Securities Section staff participated in the Financial Industry Regulatory Authority’s “District 8 Preventive Compliance Meeting” in Grand Rapids on August 5, 2008.
- OFIR Securities Section staff spoke to a group of retired teachers in Traverse City on September 16, 2008, regarding current topics in the securities industry.
- OFIR Securities Section staff conducted a pilot program in Portage on September 20, 2008, entitled “Investor Education in Your Community, Securities 102: Principles of Structuring a Portfolio Workshop.” This new workshop will be the successor to the Investor Education @ Your Library® program.
- OFIR staff coordinated five in-house training sessions during the year, to provide training opportunities to OFIR insurance examiners and analysts. Such training enables staff to remain current on industry and examination issues, and provides the continuing education credits necessary to meet NAIC accreditation standards and maintain staff professional designations such as accredited financial examiner, certified financial examiner, and certified public accountant.
- OFIR and NASCUS presented the first ever Credit Union Directors College in Michigan, a one-day event geared toward enhancing directors’ understanding of the critical statutory, fiduciary, and regulatory responsibilities of credit union directorship. OFIR and NASCUS also worked with the Michigan Credit Union League (MCUL) on logistical arrangements for the session. Approximately 145 credit union directors attended the session, significantly more than initially projected. OFIR has had many requests to conduct additional credit union director training sessions, which we hope to fulfill in the coming year.
- OFIR provided education to directors, executive management, and certified public accounting firms through presentations or panel discussion at MCUL conferences and chapter meetings, Michigan Association of Credit Union conferences, Michigan Association of CPA conferences and meetings, and specifically themed sessions on specific credit union industry issues. \
- Quarterly mortgage seminars were conducted throughout Michigan during the ’08 fiscal year. Special discussion concerning loan officer was presented during the last two seminars in fiscal year ’08, and monthly license/registration application workshops were presented by Consumer Finance staff.
- Consumer Finance Section - For the 1<sup>st</sup> time, mortgage loan officers will be required to complete 24 hours of pre-registration education and 6 hours of continuation education, and will be required to pass a loan officer admission test.
- The Policy Division attended the Conference of State Bank Supervisors- sponsored, Congressional Fly-In in Washington, D.C. The Congressional Fly-In gives state banking commissioners from around the country the opportunity to share information with their colleagues regarding industry best-practices and hot- button items occurring in their respective states. Foremost, it gives states the opportunity to impress upon their congressional delegations the issues they are currently facing and most concerned about. OFIR had the opportunity to

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

weigh in with Senator Levin's staff, as well as Senator Stabenow and her staff regarding the foreclosure crisis and outlined the steps Michigan had recently taken with passage of the Loan Officer Registration package of bills.

- The Policy Division, along with the Commissioner, Chief Deputy Commissioner and Office of General Counsel, along with the Product Review Division briefed the Detroit Caucus Auto Insurance Workgroup on the Fundamentals of Rate Regulation in Michigan. Key topics discussed were the mechanics of ratemaking and the agency's role; the legal framework; pending legislation; the historical context and alternative state models.
- OFIR completed a survey of approximately 60 insurance companies that write homeowners' insurance in Michigan to obtain sample premium data for inclusion in the *2008 Buyers' Guide to Home Insurance* publication. The guide and the interactive web version of the guide were released in November of 2008. The guide is a valuable resource for purchasers of home insurance in Michigan by providing basic information and tips on how to reduce their premium through the use of discounts and good planning.
- The Policy Division produced the Short-term or 1-Time Limited Duration Health Insurance Policy report. This report is required by MCL 500.2213b, PA 457 of 1998. The report is required to be issued by June 1 of every year since 1998. The statute requires a report on the number of policies issued, losses paid, and premiums written for the Short-Term policies in Michigan. The report is given to the Legislature and the Governor's Office.
- The Policy Division worked closely with Dr. Eliot Wicks from Health Management Associates to produce the "Changes in HMO Enrollment Related to Increased Consumer Cost Sharing Provisions in MCL 500.3515" report. PA 306 of 2005 required the Commissioner to prepare a report to determine whether giving HMOs greater flexibility in cost sharing increased their ability to attract new employers and to increase enrollment.
- OFIR has a representative that serves on the Michigan Medicare and Medicaid Assistance Program (MMAP) board. This program functions on a statewide basis. Its purpose is to set up volunteer programs to help individuals who receive Medicare or Medicaid find appropriate services wherever they are located in Michigan. The board oversees the money received from the federal government. They determine what programs should be established, provide goals for those programs, and then evaluate the outcomes so Michigan's citizens are better served in this area.
- OFIR completed a survey of approximately 65 insurance companies that write automobile insurance in Michigan to obtain sample premium data for inclusion in the *2008 Buyers' Guide to Auto Insurance* publication. The guide is a valuable resource for purchasers of automobile insurance in Michigan by providing basic information and tips on how to reduce your premium. The guide and the interactive web version of the guide were released in April of 2008.
- OFIR provided technical assistance to the newly created Insurance Consumer Advocate appointed by Governor Jennifer Granholm.
- OFIR reviewed and provided input to the Michigan Association of Insurance Agents on its newly revised Essential Insurance agent handbook.
- OFIR obtained and researched various auto insurance related statistics, such as the 2007 P&C by-line premium report and the 2007 circuit court auto negligence case.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

- The Policy Division assisted the Consumer Finance Division with the Mortgage Industry Advisory Board by defining the Board and OFIR's roles, setting guidelines, procedures and designing applications for provider, course and instructor approval. Since June 2008 weekly meetings were held until late September when the first providers, courses, and instructors were approved for pre-registration education. Meetings have been biweekly and/or monthly since that time and as needed.

### **OFIR Challenges**

#### ***OFIR Wide Overall Challenges:***

- Contracts essential to the performance of OFIR's regulatory functions are very difficult to navigate through DLEG and DMB which causes delays in implementing the contractual services.
- Restraints on travel, both within Michigan and out-of-state, seriously hamper training of professional staff and diminish Michigan's voice in national organizations that contribute to formulation of national policy, development of regulatory tools and support state regulator initiatives.
- Conversion of the then largest state-chartered bank to a Texas charter reduced revenues available for bank supervision at a time when heightened oversight of the industry is necessary.
- High turnover among bank examiners with three to four years experience is making it difficult to develop the highly experienced staff necessary to effectively oversee the banking industry.
- Insufficient number of full time equivalents (FTEs) to adequately staff regulatory line divisions.
- Credit unions continue to experience weak earnings and other operational stresses during the current weak economic environment.
  - Problem credit unions are defined as those with CAMEL composite ratings of 3, 4, or 5. Twenty-nine of the 221 state-chartered credit unions were problem institutions at September 30, 2008.
  - Although total assets and the number of credit union members continue to grow, no new credit unions have been chartered under Michigan law in 22 years.
  - The NCUA is the regulator of federally-chartered credit unions and administrator of the National Credit Union Share Insurance Fund. As insurer, NCUA examiners participate in joint contacts with Division examiners at selected credit unions. Although NCUA also uses the CAMEL rating system, only the Credit Union Division's rating is disclosed to the credit union.
  - There has also been recent discussion of possible federal legislation to limit the powers of state-chartered credit unions to only those powers afforded to federally-chartered credit unions due to allegations of ineffective oversight by various state regulators.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

### ***State Economic Conditions***

- Michigan's protracted economic downturn and subsequent malaise have significantly impacted the condition of the state's financial institutions. State residential real estate loan delinquency and foreclosure levels are seriously high due to lay-offs from auto industry related jobs and re-pricing of inappropriate products sold by the sub-prime mortgage lending industry. This has resulted in declining real estate values and a build-up of real estate inventory. This, in turn, has led to a high default rate on residential construction and development loans as builders find no buyers for their product. Michigan's unemployment is the highest in the country, and the state's challenge is attracting new business. Southeast Michigan has been particularly hard hit by auto industry lay-offs. This has both short- and long-term implications for Michigan financial institutions..
- With the national (and global) meltdown of the economy, it is likely that insurance licensees are feeling the pinch as their sales and commissions decline. Insurance Investigation and Examination staff predicts an increase in licensees who will make bad decisions during these trying times, which may lead to increase fiduciary violations.
- Consumer Finance Section - The licensee/registrant population under the consumer finance licensing statutes continued decrease from previous year numbers.

### ***Impacts***

- Michigan's economic condition threatens the health of its depository and non-depository financial institutions, resulting in a need for increased regulatory oversight.
- Stressed lenders have tightened credit standards for both consumers and businesses, constraining economic development and causing existing businesses to scale back inventories and employment.
- Many mortgage loans made to subprime borrowers between 2004 and 2007 were adjustable rate loans that are re-pricing. Media reports continued through 2008 to report on the inability of some borrowers to repay their loans at the fully-indexed interest rate and the resulting rising foreclosure rate. Financial institution regulators are encouraging loan servicers to work with borrowers to modify loan terms to make them affordable in order to enable homeowners to stay in their homes.
- Falling home values and slower home sales have made it difficult for homeowners who can no longer afford their mortgages—whether prime, subprime, adjustable rate or fixed rate—to refinance or sell their homes.
- The market for subprime credit has largely evaporated, with the result that the market for new and existing homes has shrunk considerably.
- Large out-of-state lenders are cancelling credit lines to Michigan businesses, exacerbating the cash-flow problems of large and small companies alike.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

- The insurance companies, which are heavily invested in the market are currently experiencing large investment losses. In the past, companies have used the return on the investment portfolios to offset operating losses and bolster the bottom line. However, now with asset values on the decline and investment losses mounting, companies are likely to record losses and may make decisions to pull out of markets where the business is not profitable. This may result in less competition in the market and higher rates for insureds. This will be especially difficult given Michigan's economy.

### ***Regulatory Issues***

- While the State's economy has declined, OFIR has seen a dramatic increase in regulatory issues that require an increased level of staff to monitor.
- The protracted economic decline in Michigan is eroding the strong capital that Michigan's banks held at the beginning of the century. Economic conditions are causing asset quality to decline and many institutions are facing earnings challenges. OFIR has observed a significant increase in the number of banks with supervisory ratings other than "satisfactory". This number has more than doubled since year-end 2007. Examination frequency has been increased, and the financial condition of Michigan state-chartered banks is monitored by staff on a quarterly basis. Adverse trends are analyzed and followed up as staff levels permit. A not unusual side effect of current conditions is greater interest in industry consolidation.
- Economic conditions have slowed, but not halted, organization of new state banks. OFIR approved charters in 2008 for new banks in Grandville and Ann Arbor.
- Industry issues that impact Michigan's financial institutions are:
  - Commercial Real Estate –Values are declining due to economic conditions in the state; regulators are observing whether concentrations are being appropriately controlled and monitored and that losses on CRE credits are recognized timely.
  - Land Developers/Construction – This industry has been hard hit, with the new home market at a stand-still across much of the state. Regulators are monitoring industry exposures and management of those exposures.
  - IT Threats – Despite the increased focus on institution asset quality, institutions cannot ignore the need for appropriate controls against intrusion, phishing attempts, and hackers.
  - Corporate Governance – Regulators are monitoring for appropriate treatment of conflicts of interest, adoption of strong corporate culture with policies and procedures, and appropriate documentation in Board and committee minutes of actions taken.
  - Automobile Industry – Industry downturn has seriously impacted employment levels, real estate sales and values, and supplier companies with broad ripple effect on local communities. Regulators are monitoring direct exposures and attempting to quantify indirect exposures.

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

- Bank Secrecy Act and Anti-Money Laundering – Compliance remains an important issue with high potential legal and reputational risk. With OFIR examiners focusing on bank safety and soundness, these requirements are currently examined for only by federal regulators.
  - As reported by several national mortgage data resources, Michigan consistently ranks in the top ten states for incidence of mortgage fraud. OFIR's consumer protection efforts in this arena will be stronger going forward with the 2008 addition of ten examiners to program staff and a new requirement that takes effect in 2009 for the registration of mortgage loan originators.
- There are several areas of regulatory oversight that need to be strengthened within the Insurance Code addressing fiduciary obligations of public adjusters, title agents and agencies. Public adjusters have been problematic for a number of years and the statute has not been substantially amended or modified in more than 15 years. Same holds true for the sections of the insurance code that govern title agents and agencies. The number of fraud and defalcation referrals from title underwriters and federal law agencies continues to increase. Modernization of the title insurance agency language is critical because of the mortgage fraud and collapse of the industry in 2008.
- Economic conditions have significantly slowed the organization of new financial institutions. Only one state-chartered bank opened during fiscal year 2008; there were no new state-chartered credit unions or domestic insurance companies.
- Likely enactment of a modernized Uniform Securities Act (USA) in fiscal year 2009 will include significant changes from the current law, and will result in additional regulatory responsibilities. As an example, Michigan currently registers Investment Adviser (IA) entities, but not individuals. There are currently 1,800 IA entities registered or notice-filed in Michigan. Under the modernized USA, OFIR must also register individual representatives (IARs) that dispense the investment advice. OFIR anticipates at least 10,000 IARs will be required to register.
- OFIR expects important growth in the size and complexity of domestic insurers coming under its purview in 2009. One of the nation's largest life insurers, John Hancock Life Insurance Company (USA), intends to redomesticate two significant U.S. subsidiaries to Michigan, and applications for OFIR approval have been filed. In addition, another insurer has advised us of a planned expansion pursuant to an acquisition strategy, and a third insurer with a subsidiary now domiciled in Colorado has been in discussions with us about a re-domestication to Michigan. This potentially significant increase in responsibilities will include a need for additional FTEs and contractual resources in order to properly supervise and regulate these large, complex companies.
- Numerous securities investigations are underway, with others to be assigned as resources permit. Many are multi-million dollar cases involving securities fraud. Investigations with alleged criminal activity are referred to the Attorney General's Criminal Division. Additional FTEs are needed to conduct securities investigations; a budget request has been made for fiscal year 2010.
- OFIR is in the process of implementing the new NAIC risk-focused financial surveillance framework into its insurance examination process. The new process will become an accreditation standard on January 1, 2010. This initiative represents a dramatic change in the financial examination process for insurance companies.
- The generally strong capitalization of Michigan's insurance companies has previously enabled them to weather economic downturns, but economic conditions are causing asset quality to decline and many institutions are facing earnings challenges. The financial condition of

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

Michigan domiciled insurance companies is monitored by staff on a quarterly basis. Adverse trends are analyzed and followed-up as staffing permits. OFIR is beginning to see more interest in industry consolidation, which is not an unusual side-effect of this situation.

- Legislation has been introduced in the U.S. Congress that would permit an optional federal charter for insurance companies. This issue has been debated for quite some time, but interest in this alternative seems to remain high. If the legislation eventually becomes law, OFIR's insurance regulatory program could be impacted significantly if insurers choose to convert to a federal charter. According to the latest news any federal legislation would simply provide the option of a federal charter, which would primarily impact the life and health companies. However, given current market conditions and problems interest in bringing insurance under federal regulation appears to be declining.
- Chapters 10, 11 and 12 of the Michigan Insurance Code need to be amended to bring Michigan into compliance with the NAIC's Accreditation standards and uniform licensing initiative.
- On October 1, 2007, 32 C.F.R. Part 232, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents," Final Rule, went into effect. This affects "military lending" regarding Michigan deferred presentment transactions. The Department of Defense, in the September NACCA annual conference will be approaching states to enter into memorandums of understanding to enforce the rule. This rule, amongst other things, limits a transaction's APR (MAPR) to 36%.
- The Housing and Economic Recovery Act of 2008 was signed by the President in July 2008. Under the Act, the S.A.F.E. Mortgage Licensing Act of 2008 was passed which requires all loan originators in each state to become licensed or registered, including loan originators for depository institutions, and the mandatory use of the Nationwide Mortgage Licensing System (NMLS) as the place of registry and holder of loan originator fingerprints.
- The legislature and the mortgage industry failed to amend the Secondary Mortgage Loan Act and failed to include appropriate criminal history check language in the Mortgage Brokers, Lenders, and Servicers Licensing Act regarding loan officers.

### ***Administrative Issues***

- Funding for mortgage regulation is threatened by the steep declines in numbers of licensees and registrants under the Mortgage Brokers, Lenders, and Servicers Licensing Act and the Secondary Mortgage Act. Fees may need to be increased at a time when industry earnings are significantly reduced.
- State bank fees rose in 2008 in the first phase of a three-year plan to reapportion the cost of funding OFIR's bank regulation program in the wake of the 2007 conversion of Comerica Bank to Texas charter. Comerica had paid 2007 fees approximating \$1.8 million. The program remains heavily dependent on two large institutions that in 2008 paid fees amounting to 36% of bank program revenues.
- The OFIR bank regulation program is experiencing a high level of turnover among examiners with one to four years' experience. Study indicates that Michigan bank examiner salaries are not competitive with those offered by public accounting firms, financial institutions, other state financial regulators in the Midwest, or federal bank regulatory agencies. Reports anticipate high numbers of federal examiner

## **FY 2008 Annual Program Performance Measures**

---

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

---

retirements in the next few years, which will likely translate to further losses of promising new employees in this program. In 2008, the Department filed a request for improved examiner compensation with the Coordinated Compensation Advisory Council.

- A serious staffing shortage continues to exist in the OFIR securities program. As a result, the unit has not been able to process work on a timely basis. Investigations of alleged securities fraud are backlogged due to a lack of examination and investigation staff; this backlog has continued for many months due to the extensive reassignment of field staff to the office in order to cover statutorily mandated priorities. Examinations of investment advisers and broker-dealers are currently being done on a targeted basis only, and are significantly backlogged as well. Finally, the unit is also using student assistants to complete core work assignments that should be performed by full-time, fully trained agency employees.
- OFIR has no actuaries on staff and relies on the use of contractual actuaries to support the statutorily mandated insurance examination program. Accordingly, it is critical the OFIR receives timely approval to extend and use actuarial contracts.
- A request was submitted in December 2006 to the Department to reclassify insurance examiners and analysts from the “auditor” classification to the “financial institution” classification. This difference in classification has existed since 2000, when the Financial Institutions Bureau, Insurance Bureau, and Securities Bureau were merged together into OFIR. While the examiners and analysts in the insurance area remain classified in the civil service auditor series, examiners in the Bank & Trust Division, Credit Union Division, Mortgage Examination Section, and Securities Section are all classified in the financial institution series. This reclassification is needed to provide parity among OFIR examination and analyst staff members. An internal task force reviewed this issue in detail, and concluded that the reclassification is appropriate.
- In the formation and development of a new unit to promote and regulate captive insurance companies in Michigan, part of this plan is to contract with third parties to assist in the development and implementation of an application process, regulatory oversight and examination framework.
- OFIR continues its work to develop an enterprise wide database and system. Upon completion this system will act as an integrated regulatory management information system for all of OFIR. The current goal is to transition the agency to a complete paperless system and at the same time continue to fulfill our responsibilities for adequately maintaining information.
- Consumer Finance Section - Renewal of licenses and registrations was completed appropriately for all consumer programs during fiscal year '08.
- Consumer Finance staff successfully reviewed annual reports and financial statements submitted by licensees/registrants under the various consumer finance programs.
- Consumer Finance staff facilitated and participated in weekly Mortgage Industry Advisory Board meetings.



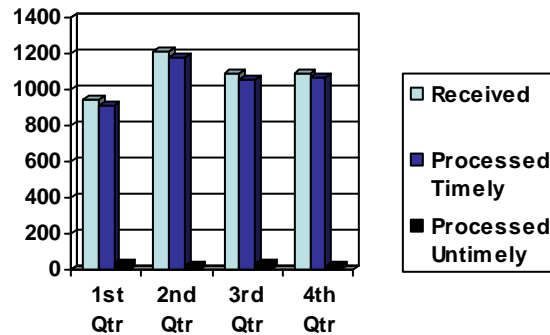
## FY 2008 Annual Program Performance Measures

**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

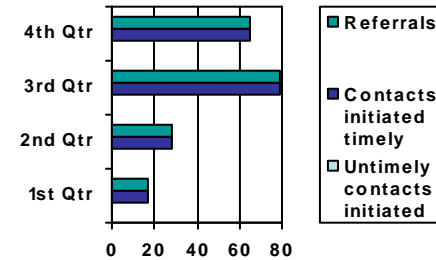
**APPROPRIATION UNIT/PROGRAM:** Office of Financial And Insurance Regulation

### Select Performance Measures for FY08

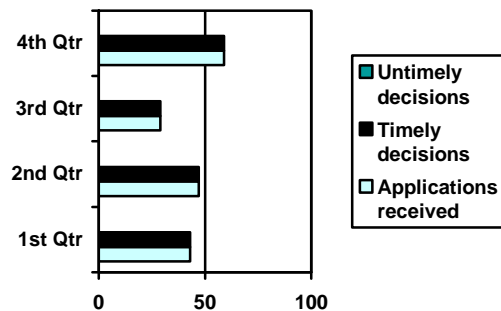
Process 90% of new consumer complaints within seven business days of receipt.



Contact 95% of investigation respondents within 7 working days of a referral for an investigation.



Act upon 90% of installment seller applications within 25 business days for FY'08.



Review 80% of property and liability rate, rule and form filings within 30 days for FY'08.

